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9 SMITH'S FOOD & DRUG CENTERS, INC.

10 **UNITED STATES DISTRICT COURT**

11 **DISTRICT OF NEVADA**

12 ANTONIO SMITH, an individual,

13 CASE NO. 2:17-cv-02959-RFB-GWF

14 Plaintiff,

15 v.

16 SMITH'S FOOD & DRUG CENTERS, INC.;
17 DOES 1 through 100; and ROE
18 CORPORATION 101 through 200, inclusive,

19 **STIPULATION AND ORDER TO**
20 **EXTEND DISCOVERY**
(First Request)

21 Defendant(s).

22 WHEREAS, the parties participated in the FRCP Rule 26(f) conference and thereafter exchanged
23 their respective disclosure statements in a timely manner and have begun discovery; and

24 WHEREAS, Defendant is scheduled take Plaintiff's deposition on April 10, 2018, and Plaintiff is
25 in the process of scheduling the depositions of Defendant's employees and/or knowledgeable
26 representative/s; and

27 WHEREAS, the parties have been cooperating in discovery but have encountered unexpected
28 problems that have caused delays in responding to written discovery, taking depositions and gathering
all of the medical records relevant to Plaintiff's claim for damages; and

29 WHEREAS, the parties intend to identify and disclose expert witnesses but will need additional
30 time to do so as the parties are still gathering the requisite foundational evidence needed by the experts
31 to provide their expert opinions; and

32 WHEREAS, counsel for the parties previously discussed and agreed to extend discovery to allow
33 the parties to complete the same. Unfortunately, due to scheduling conflicts and other obligations,

1 counsel were unable to finalize and submit this stipulation earlier;

2 IT IS HEREBY STIPULATED AND AGREED by and between KARLA M. GABOUR, ESQ.
3 of the law firm BERNSTEIN & POISSON, Attorneys for Plaintiff ANTONIO SMITH, and JERRY S.
4 BUSBY, ESQ. of the law firm COOPER LEVENSON, P.A., Attorneys for Defendant SMITH'S FOOD
5 & DRUG CENTERS, INC. that certain discovery deadlines in this matter be continued for a period of 45
6 days to provide additional time for counsel for the parties to retain and disclose expert witnesses.

7 **A. STATEMENT SPECIFYING THE DISCOVERY THAT HAS BEEN COMPLETED.**

- 8 1. The parties participated in the Fed. R. Civ. P. 26(f) conference on December 12, 2017.
- 9 2. Both parties made their initial disclosures of evidence pursuant to Fed. R. Civ. P. 26.1(a)(1)
10 in a timely fashion.
- 11 3. Plaintiff is finalizing written discovery to serve on Defendant.
- 12 4. Defendant served interrogatories, requests for admissions, and requests for production of
13 documents and Plaintiff responded to the same after being granted two extensions.
- 14 5. Defendant has requested and recently received HIPAA authorizations from Plaintiff's
15 attorney and has sent document requests to the medical providers identified by Plaintiff
16 (approximately ten providers). In addition, Defendant has identified other medical providers
17 and has sent a request to Plaintiff's attorney to provide authorizations for the same. As a
18 result, Defendant anticipates receiving medical records within the next thirty days from the
19 providers identified by Plaintiff. Defendant will need additional time to recover records
20 from the additional providers identified and for whom HIPAA authorizations have been
21 requested but not yet received.
- 22 6. Defendant has scheduled the Plaintiff's deposition to take place on April 10, 2018.
23 (Defendant desired to take the Plaintiff's deposition earlier; however, due to unexpected
24 delays in responding to written discovery and scheduling conflicts, April 10th was the earliest
25 date that Plaintiff could be deposed.)
- 26 7. Plaintiff will schedule the deposition to Defendant's employees with knowledge of the
27 accident or with information relevant to the operation of the store in question.

1 **B. SPECIFIC DESCRIPTION OF THE DISCOVERY THAT REMAINS TO BE**
2 **COMPLETED**

3 Defendant has scheduled Plaintiff's deposition to take place on April 10, 2018. Plaintiff will
4 schedule depositions of Defendant's employees. Both parties intend to retain and identify experts after
5 the necessary foundational information has been recovered by counsel.

6 **C. REASONS WHY THE DISCOVERY REMAINING WAS NOT COMPLETED WITHIN**
7 **THE DEADLINES CONTAINED IN THE AMENDED DISCOVERY SCHEDULING**
8 **ORDER**

9 The attorney working for the law firm representing Plaintiff left the firm which resulted in this
10 case being reassigned to another attorney and delayed Plaintiff in serving written discovery on
11 Defendant. With the change in attorneys, there were also delays in having Plaintiff respond to
12 Defendant's discovery requests. Additionally, Defense counsel identified additional medical providers
13 that were mentioned in medical records disclosed by Plaintiff's attorney. The importance of these
14 providers is unknown at this time but it is necessary to recover their records, especially since one of the
15 "new" providers is a pain management doctor.

16 **D. PROPOSED SCHEDULE FOR COMPLETING ALL REMAINING DISCOVERY**

17 As a result of the above, it is requested that the deadlines for Defendant's Disclosure of Rebuttal
18 Experts, Close of Discovery, and Dispositive Motions in this case be continued 60 days from their
19 present deadlines.

20 1. **Discovery Cut-Off Date:** The parties jointly propose that the discovery cut-off date will
21 be extended 45 days from its present deadline of **May 29, 2018 to July 23, 2018**.

22 2. **Amending the Pleadings and Adding Parties:** The parties are *not* requesting an
23 extension of this deadline.

24 3. **Fed.R.Civ.P. 2(a)(2) Disclosures (Experts):** The parties request that Initial Expert
25 Disclosure be extended from **March 30, 2018 to May 29, 2018**. Disclosure of Rebuttal Experts be
26 extended from **April 30, 2018 to June 29, 2018**.

27 4. **Interim Status Report:** The parties request that the date to file a Joint Interim Status
28 Report be continued from **March 30, 2018 to May 29, 2018**.

1 5. **Dispositive Motions:** The parties request that date for filing dispositive motions be
2 continued from **June 28, 2018** to **August 27, 2018**.

3 6. **Pretrial Order:** The parties request that date for filing the joint pretrial order be
4 continued from **July 30, 2018** to **September 28, 2018**. In the event that dispositive motions are filed,
5 the date for filing the joint pretrial order shall be suspended until 30 days after decision on the
6 dispositive motions or until further order of the court. In the further event that the discovery period is
7 extended from the discovery cut-off date set forth in the Discovery Plan and Scheduling Order, the date
8 for filing the joint pretrial order shall be extended in accordance with the time periods set forth in this
9 paragraph.

10 Respectfully submitted this 22nd day of March, 2018.

11 BERNSTEIN & POISSON

COOPER LEVENSOn, P.A.

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19 Attorneys for Defendant
20 SMITH'S FOOD & DRUG CENTERS, INC.

21 IT IS SO ORDERED:

22 
23 UNITED STATES MAGISTRATE JUDGE
24 DATED: 3/26/2018